



Minutes
Town of Lake Park, Florida
Regular Commission Meeting
Wednesday, August 1, 8:30 p.m.
Town Commission Chamber, 535 Park Avenue

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, August 1, 2012 at 8:30 p.m. Present were Mayor James DuBois, Vice-Mayor Kendall Rumsey, Commissioners Steven Hockman, Jeanine Longtin and Tim Stevens, Town Manager Dale S. Sugerman, Town Attorney Thomas Baird, and Town Clerk Vivian Lemley.

Vice-Mayor Rumsey led the Invocation and Mayor DuBois led the Pledge of Allegiance. Town Clerk Vivian Lemley performed the Roll Call.

ADDITIONS/DELETIONS/APPROVAL OF AGENDA:

Motion: A motion was made by Vice-Mayor Rumsey to approve the Agenda; Commissioner Hockman made the second.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 5-0

PRESENTATION:

- 1. Proclamation in Honor of Lieutenant Pedro L. Palenzuela for his Services as Commanding Officer of the Palm Beach County Sheriff's Office District 10**

Mayor DuBois presented the Proclamation to Lieutenant Pedro L. Palenzuela.

2. Request by the American Cancer Society to Hold the 2013 Relay for Life at Lake Shore Park

Alison Bishop, with the American Cancer Society, introduced Beverly Kelly, who will speak on behalf of the Volunteers for Relay for Life.

Ms. Kelly explained her ties to the Town of Lake Park, American Cancer Society and Relay for Life. She stated that Relay for Life is the largest cancer fighting movement in the world. She stated that the 2012 Lake Park Relay for Life event raised over \$11,000 with 65% of every dollar raised staying right here in this community. She requested that the Town host the 2013 Relay for Life event on April 26, 2013 at Lake Shore Park.

Motion: A motion was made by Vice-Mayor Rumsey to approve the Town to host the 2013 Relay for Life event at Lake Shore Park on April 26, 2013; Commissioner Stevens made the second.

Mayor DuBois thanked Ms. Bishop, Ms. Kelly, Town staff and residents who volunteered and participated in the Relay for Life event and stated that it is no small effort that the participants put in personally to ensure the success of this event.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 5-0

PUBLIC and OTHER COMMENT:

No public comment.

PUBLIC HEARING

ORDINANCE ON SECOND READING:

3. Ordinance No. 09-2012 Text Amendment for the Campus Light Industrial and Commercial (CLIC) Zoning District

Mayor DuBois opened the Public Hearing.

Town Manager Sugerman stated that this is a public hearing and an Ordinance on second reading for the Commission to consider a Text Amendment to the Campus Light Industrial and Commercial (CLIC) Zoning District to expand the permitted area for educational facilities and requiring that these uses be approved as a conditional use. He stated that the Ordinance was approved by the Commission on first reading at the July 18, 2012 meeting.

Public Comment

No Public Comment

Public Comment Closed

Motion: A motion was made by Vice-Mayor Rumsey to approve Ordinance No. 09-2012 Text Amendment for the Campus Light Industrial and Commercial (CLIC) Zoning District on second reading; Commissioner Hockman made the second.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 5-0

Attorney Baird read the title of the Ordinance into the record.

Mayor DuBois closed the Public Hearing.

RESOLUTIONS:

4. Resolution No. 18-08-12 Palm Beach County League Supporting the County's Allocation of the \$12.50 Funds to Enhance Municipal Intergovernmental Communications Plan

Town Manager Sugerman explained that when a moving violation is issued and the fine is paid a portion of that fine is put into the \$12.50 Communication Fund, which supports municipal/local government public safety communications. He stated that the funds are collected Countywide and distributed to all municipalities that have that type of communication system. He stated that the Town does not have that type of communication system and the fee does not come to the Town, but it does go to other

municipalities in Palm Beach County. He stated that Palm Beach County is making an effort to pass legislation that would retain the \$12.50 collected fee in the County coffers instead of distributing it to the municipalities to support public safety communications. He stated that the Palm Beach County League of Cities has asked all 38 municipalities to support their resolution to strongly encourage the County to continue to distribute the \$12.50 communication fees to the municipalities that have public safety communication systems.

Motion: A motion was made by Commissioner Hockman to approve Resolution 18-08-12; Vice-Mayor Rumsey made the second.

Mayor DuBois stated that he attended the Palm Beach County League of Cities Board of Directors meeting on June 27, 2012 and there was extensive discussion by the Board members. He stated that he is in support of this Resolution.

Commissioner Stevens stated that he is voting no on this item because he believes that when the money goes from Lake Park to other Towns, Lake Park residents are not directly benefiting from it and that he believes that if the money goes to the County there is a chance that the funds would trickle down to Lake Park residents. He stated that he does see the benefit of standing in solidarity with the other municipalities, but that he will be voting no.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens		X	
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 4-1

DISCUSSION AND POSSIBLE ACTION:

5. Final Payment to Simmons and White for Engineering Services Associated with the Downtown Alleyway Improvements, Paving, Drainage, Lighting

CRA Project Manager Richard Pittman explained the project and that this item is to approve additional funds be paid to Simmons and White for construction oversight. He stated that as he prepared this item and the construction aspects he realized that he failed to emphasize how good a job the construction contractor did during construction. He stated that this item is about the consultant's role in the design and construction phase of the project. He stated that on October 19, 2011, the Town Commission approved a

construction contract with Rosso Paving and Drainage for this project and the agenda item also identified the consultants (Simmons & White) estimate to perform construction phase and electrical consultant services for \$4,050.00. He stated that the Town proceeded to construct the project and the project did not go as smoothly as anticipated and services were needed that were not included in the original estimate from the consultants. He stated that during construction, the consultant accumulated hours that total \$9,830.00 and time sheets have been provided to him to account for the hours. He stated that he contested some of the hours and need for work and \$1,266.00 has been deducted for a new total of \$8,564.00 of which the Town has already paid \$4,025.90, so the final payment due is \$4,538.74. He stated that his recommendation to pay the consultants is based one that the consultants did provide timesheets and administrative assistance. He stated that when looking at the construction costs total of \$297,406 the consultant would have been paid a total of \$28,314 for design and construction phase services, which is 9.5% of the cost of construction and 9.5% is a reasonable percentage of the construction cost.

Commissioner Longtin asked why this is coming to the Commission after the fact.

Town Manager Sugerman stated that it was his decision to place the item on this agenda because he wanted to separate this request for additional funds for engineering services from the construction project and the construction project was finalized at the July 18, 2012 meeting. He did not want to confuse the issue with the cost overrun with the design and construction inspection engineer with the construction project itself.

Commissioner Longtin stated because the Commission is too stupid to understand.

Town Manager Sugerman stated that is not his position, but that he thought it was important to separate the item.

Commissioner Longtin stated that now the work is done and the Town owes this bill supposedly.

Town Manager Sugerman stated that the final number was established in the last week to 10 days because of the negotiations back and forth between the Town and the consultants about the validity of the additional charges and attempts to negotiation some of the additional charges down before presenting this item to the Commission. He stated that it is appropriate that the item was scheduled for this meeting and should not have been scheduled any sooner.

Commissioner Longtin stated that this consultant is over budget and that she was provided no information regarding that the consultant is over budget and that it has been with any contractor for them to go ahead and do the work and that it will be handled later.

Town Manager Sugerman stated that Commissioner Longtin makes a valid point and the reason why it is coming to the Commission this evening is because there could be a dispute on whether or not this bill should be paid.

Commissioner Hockman stated that he had a concern about it being over budget and it goes back to not knowing what the engineer's responsibility was versus the Town's responsibilities because he believes that the engineer would have had more in his estimate if he intended to do more work.

Commissioner Stevens thanked staff for the detail in the agenda request form regarding the "construction plan quantity issues" addressed by the consultant during construction of the project. He stated that given these issues he asked if next time that Simmons and White bids for something or comes in as the low bid does staff factor in the underbids on previous contracts in determining who should get a contract and who should not.

CRA Project Manager Pittman stated that Simmons and White did not bid this consultant service. He stated that they went through the Consultant Competitive Negotiation Process and were ranked number one among over a dozen engineers and this was their first major job with the Town. He explained that the Town discussed this project with the consultants and the consultants presented a proposal. The proposal included design and construction phase services activities and costs.

Commissioner Stevens stated that what the consultants thought it would cost was significantly under what it actually did cost.

CRA Project Manager Pittman stated "yes".

Commissioner Stevens stated that now the Town is stuck with the bill for these cost overruns in addition to what was part of the contingency and asked how this is prevented from happening in the future.

Commissioner Longtin stated that it will not, that it is how the game is played.

Commissioner Stevens stated that there has to be something that can be done.

Commissioner Longtin stated that that Commission could say no so that staff knows that the Commission is not playing this game.

CRA Project Manager Pittman stated that if Simmons and White's plans had been perfect, which is a rare case when digging underground, the Town would have paid Rosso Paving very close to what the Town ended up paying them because of the unit prices and that is why the Town does unit prices. The administration, which is basically his job, would have been much easier, the contractor would build exactly what is shown on the plans and would have billed the exact quantities that were shown on the schedule of bid items. He stated that as soon as the contractor brings up errors on quantities and starts digging and there is unforeseen conditions the quantities change and the consultants role increases and then there is an aspect of difference of opinion between the contractor and the consultant. He explained that when contractors do bid jobs that they look for little deficiencies that they can bring up during the course of the project than the Town has to decide if the contractor is right or wrong and there was one of these types of issues on this project. He stated that the job turns into referee and Simmons and White make an

opinion, then the contractor makes an opinion and eventually they come to terms and it is more detailed than thought.

Commissioner Stevens stated that he understands that it is a very nuanced and complicated process, but he is trying to wrap his head around it in order to avoid this in the future.

CRA Project Manager Pittman stated that Simmons and White have design engineers and they are trying to do a balancing act with survey end of the project and cores, where a hole is actually dug to get a measurement on how thick the existing asphalt and rock base and try to balance out the number of cores needed. In this case what was found in the cores and what the contractor found when excavating is slightly off. He stated that more cores could have been taken, but the Town would have had to pay for that and there is a balancing act.

Town Manager Sugerman stated that there are a few things the Town can do moving forward one is that the design engineer is not the construction inspector. He stated that when the design engineer is the construction inspector this type of issue can happen, but the Town would probably pay more for separate design engineer and construction inspector.

Commissioner Stevens asked if that depends on the size of the job.

Town Manager Sugerman stated "yes". He stated that it is easy for the construction manager to be the design engineer because they know what the design say. A lot of times the Town wants to have the construction manager be the design engineer, but a good underlying design is important. He stated if there are errors in the design, as there are in this case then, there may be room for further negotiation by the Commission to not authorize full and complete payment. He thinks there were errors in the design that were pointed out by the general contractor once the general contractor got into the field. He stated that if the design calls for 100 feet of fencing, but the only way the project could get done is with 200 feet of fencing and the design engineer needs to come back and spend more time to confirm the difference that he is not sure that the Town should be paying for that additional work.

Mayor DuBois stated that he is confused on the recommendation from staff.

Town Manager Sugerman stated that the recommendation from staff is that this be approved. He stated that this is a \$4,500 expense, the engineer has documented the time spent on the additional services and charges and staff is recommending approval, but staff has also learned some lessons on how things should be done differently going forward.

Commissioner Longtin stated that her problem is not with the contractor or the consultant her problem is with staff. She stated that these overrides began in January and the Commission is just now hearing about it. She stated that if there was an issue the Commission should have been told about it months ago.

Vice-Mayor Rumsey asked the consultant Simmons and White what happened.

Robert Rennebaum, Simmons and White, stated that overall this was a great project. He stated that this was a difficult design. He stated that a soil engineer took a sample every 100 feet. He stated that the rock base and asphalt used when the alleyway was originally installed was thinner than what he would recommend for today's standards. He stated that he based the design on what was out in the field as indicated by the samples. He stated that when the contractor go out there and started working there was an area found between the samples that had to have an in-field redesign and Simmons and White billed for the additional work. He stated that Simmons and White did not bill for additional hours or at a higher rate that there was additional work done based on unforeseen conditions. He stated that the anticipated scope was clearly defined. He provided the example of an issue with Seacoast Utility Authority requiring that they review the plans, revisions and in field construction meeting and none of the work was anticipated because Simmons and White was not going to be pulling a permit from the Seacoast Utility Authority. He stated that the amount presented has already been reduced based on CRA Project Manager Pittman's negotiation regarding items like the error in the calculation of the fence quantity, reduced the hourly rate of one of engineers, and reduced all the bills 20% over the contract amount, but a lot of it was additional scope. He stated that it was a tough project, a difficult design, there were a few issues with the design and they have reduced their bills and he thinks everything is justified.

Vice-Mayor Rumsey stated that the Commission was told from the outset that this was a difficult design and he does not argue the fact that Simmons and White has done the work and that he will be supporting paying Simmons and White. He asked how does the Town make sure that this does not happen again.

Mr. Rennebaum stated that it is tough and it is the nature of the business that when there is a contractor in the field the design engineer has to be out there to observe the contractors work and certify that the work was done according to the plans. He stated that he disagrees with Town Manager Sugerman and that he thinks it is critical that the design engineer is the construction oversight engineer. He stated that when the design engineer and the construction oversight engineer are the same person they are motivated to make sure that the project is constructed right because it is their design. He stated that it is tough to stop a job like this when it is already in motion.

Vice-Mayor Rumsey stated that based on the final product that it was a great project and that the consultant did a great job.

Commissioner Longtin asked why the Town staff did not come to the Commission at the beginning of the year and advise that the project was overrun.

Mr. Rennebaum stated that he thinks it is a very small amount.

Commissioner Longtin stated that she understands that it happens and that there are unforeseen circumstances. She stated that she understands Mr. Rennebaum's point of view that when they opened it they saw something different than they expected. She asked why the Commission was not told of this back in January. She stated that she wants some communication.

Mr. Rennebaum stated that it is tough to stop a construction project for a magnitude of \$4,000 to \$5,000 to bring it to the Commission for approval.

Commissioner Longtin stated that her problem is with staff that allows this stuff to happen and give the Commission no communication about it and here it is after the fact when the work is done and now the Town is being billed.

Mr. Rennebaum stated that in staff's defense that CRA Project Manager Pittman provided excellent oversight.

Commissioner Longtin stated that staff is just not good at communication.

Mr. Rennebaum stated that it is the Commission's decision if they want to hear this level of minutia about a project at the level of the Commission.

Commissioner Stevens stated that he does not.

Commissioner Longtin stated that when it comes to money that she does.

Mayor DuBois stated that the same question has been heard several times and it is getting repetitive.

Town Manager Sugerman stated that he cannot take responsibility for what happened before June 29, 2012, but he will take responsibility going forward and that he understand Commissioner Longtin's concern and assured the Commission that there will be better communication if he sees these types of problems coming in the future.

Motion: A motion was made by Vice Mayor Rumsey to approve final payment to Simmons and White in the amount of \$4,538.74; Commissioner Stevens made the second.

Commissioner Stevens stated that this is 1.5% over the \$269,000 that was bid, so he is fine with it. He stated that he wished it was lower, but it is what it is.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin		X	
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 4-1

6. Continuing Landscape Maintenance Agreement with Chris Wayne and Associates, Inc. for the Lake Park Harbor Marina

Town Manager Sugerman stated has stated that this would be a one year extension with an annual cost of \$34,889.00. He stated that the landscaping at the Marina requires specialized equipment and Chris Wayne and Associates, Inc has that specialized equipment and therefore staff is recommending approval of this extension.

Commissioner Hockman stated that this goes back to the Public Works Department not being capable of mowing.

Town Manager Sugerman stated that Public Works is capable of mowing all types of grass with the existing equipment except for Bermuda Turf, the Town does not have Bermuda Turf equipment. He stated that Public Works could do the landscaping but the Town would have to replace the Bermuda Turf with a lesser quality turf.

Commissioner Hockman stated that he is always hearing about special equipment and that based on his research online the only thing special is the fact that only 1/3 is cut. The Town has mowers and as long as the blades are sharp it cuts the grass and that only the blades need to be raised and lowered to the right height. He stated that he sees Chris Wayne and Associates using the same equipment at the Marina that he mows everything else and it is not specialized equipment. He stated that he is having a hard time regarding why the Town staff cannot do it and asked if staff is just not capable. He stated that it is hard to believe that it is the equipment.

Town Manager Sugerman stated that he understands and if that is the Commission direction staff will do that.

Commissioner Stevens asked if any effort has been made to move towards a xeriscape type system.

Town Manager Sugerman stated that he could not answer that question.

Vice-Mayor Rumsey stated that it is a question for the Commission to determine if that is something that the Commission is even interested in doing. He respects Commissioner Stevens' asking that question every time the Commission discusses grass, but the Commission has never decided that xeriscape is a direction that it is interested in moving.

Commissioner Stevens stated that he thinks that the Commission should be interested in saving the Town money if it is a cost effective approach. He stated that he likes the grass and it looks great. He stated that he thinks that there needs to be rain gauges on the sprinkler timers to save some money on irrigation, the water is free, but it does cost electricity to run to pumps. He stated that the more low maintenance, less intensive and resource demanding landscaping the better.

Commissioner Longtin stated that she has nothing against Chris Wayne and Associates, but she is tired of paying Public Works to do the job.

Motion: A motion was made by Vice-Mayor Rumsey to continue the Landscape Agreement with Chris Wayne and Associates for Lake Park Harbor Marina; Commissioner Stevens made the second.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman		X	
Commissioner Longtin		X	
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion passed 3-2

7. Review of Draft of Revised Handbook of Procedures and Policies for Employees of the Town of Lake Park (Employee Handbook)

Public Comment:

Diane Bernhard, 301 Lake Shore Drive, provided the Commission with a handout (see Exhibit "A") of concerns she has with the Employee Handbook. She stated that she is concern about what employees are disciplined for which activities. She stated that in the employee handbook there are lists of things that an employee can be penalized for and that she understands that all the offenses that could possibly occur cannot be included in the Handbook and obviously there needs to be a contingency plan. She stated that as the Handbook now reads the Town Manager has the sole right to decide what is an offense, discipline and to fire a person. She stated that she believes that this gives the impression to the employees of the Town that they can be fired or disciplined for trivial reasons or because of personal reasons from the Town Manager. She suggested that another individual or individuals need to be included who will decide what is an actionable offense and the punishment for it. She stated that she did not find that many things to criticize in the new revision of the Handbook and that it exceeds her expectations.

Public Comment Closed.

Town Manager Sugerman stated that Human Resources Director Bambi Turner took a considerable leadership role in the development of the Handbook. He stated that he appreciated all the people who participated in the development of the Handbook.

Commissioner Stevens stated that he thinks the Handbook speaks for itself and should just move to questions from the Commission.

Commissioner Stevens stated that the language in Section 7.12 Documented Written Verbal Reprimand is confusing, if every verbal reprimand is reduced to writing and placed in the employee's file then it is a written reprimand. He stated that it is either verbal or written and suggested for clarification he would recommend first written reprimand and second written reprimand.

Commissioner Longtin stated that she had the same question.

Human Resources Director Turner stated that in the original Handbook the language documented verbal reprimand was included however, when the union contract was negotiated the union specifically requested that the language to documented written Verbal Reprimand to ensure that documentation of the verbal reprimand is made and inserted in the employee personnel file. She stated that this language has been inserted in the union contract and in the Handbook to ensure that employees are treated equally. She stated that change in the language does not suggest that it is more serious a disciplinary action than the previous language it just means that it is written documentation for the personnel file.

Commissioner Stevens stated that he is going to vote to approve the Handbook with or without the change the he just thinks the language is confusing.

Commissioner Longtin asked why the language cannot be "Documented Verbal Reprimand".

Human Resources Turner stated that it could but there would be different disciplinary paperwork for general employees than for union employees, this provides for uniformity.

Commissioner Stevens stated that he thinks first written reprimand and second written reprimand is clearer, but he does not have to big of a position on it either way.

Commissioner Longtin and Mayor DuBois discussed the procedure to review the Handbook, the length of time it would take to review the Handbook and whether either of them would approve the Handbook as it currently reads.

Mayor DuBois stated that he is looking for direction from the Commission on how they want to proceed with the review of the Handbook. He suggested that the Handbook could be referred to a Committee for review and to make recommendations to the Commission or the Commission could go line by line and review it now.

Commissioner Longtin stated that she has a lot of questions and comments.

Mayor DuBois suggested that each member of the Commission could individual meet with staff go over their questions and comments rather than on the Dais.

Commissioner Longtin asked if Mayor DuBois is suggesting that each Commissioner meet with staff with questions and comments and staff can then address them change or no change.

Mayor DuBois stated that he has already sent his questions and comments to staff and staff has responded. He stated that he thought that was the idea over the past two weeks for each Commissioner to take that opportunity, but the Commission can keep going in this manner and that is fine with him.

Commissioner Stevens suggested that this item be placed on the next agenda and in the interim period each Commissioner will have the opportunity to meet with staff about any questions and anything that is not addressed or needs to be legislated the Commission will talk about and make a decision.

Motion: A motion was made by Commissioner Stevens to move the review of the Employee Handbook to the next meeting; Commissioner Hockman made the second.

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Hockman	X		
Commissioner Longtin	X		
Commissioner Stevens	X		
Vice-Mayor Rumsey	X		
Mayor DuBois	X		

Motion failed 5-0

Commissioner Longtin asked Mayor DuBois why he is not inclined to approve the Handbook at this time because it would help her to know where the other Commissioners are coming from on the Handbook.

Mayor DuBois stated that his expectation to the changes to the Handbook extended to accommodating the new language that the Commission adopted to clarify the duties of the Town Manager and he did not expect as many of the changes that were proposed and he thinks they exceed what was required.

Commissioner Longtin asked who she should get with regarding her questions and comments.

Mayor DuBois suggested that Commissioner Longtin get with Town Manager Sugerman.

Town Manager Sugerman authorized that any Commissioner who wants to meet with Human Resources Director Turner may do so. He reminded the Commission that at the last meeting the Commission postponed this item and during the two weeks were to get with staff, staff waited and heard from two of the Commissioners.

COMMENTS BY COMMISSION, TOWN MANAGER, TOWN ATTORNEY

Commissioner Hockman had no comments.

Commissioner Stevens stated that on Saturday, August 4, 2012 at Mos' Art the 3 Guitars will be performing at 6:30 pm.

Commissioner Longtin stated that the reason why she got emotion about the irrigation system was because she had talked to an employee, who was an irrigation specialist, and that the employee felt it could be fixed for very minimal cost. She explained to the employee that it had become a political issue and that nobody was blaming the employee for the problems with the irrigation. She stated that she felt like she let the employee down. She stated that it is hurricane season and encouraged everyone to be prepared and if anyone needs to go to a special needs shelter that they must pre-register.

Vice-Mayor Rumsey had no comments.

Attorney Baird distributed to the Commission the latest litigation status report (see Exhibit "B").

Commissioner Stevens asked what changes are in the report.

Attorney Baird stated that one additional foreclosure came in.

Town Manager Sugerman had no comments.

Mayor DuBois had no comments.

August 1, 2012

Tab 7, Employee Handbook

These references start on PDF page 161 and on Employee Handbook pages 78 through 87.

These references all concern who gets to decide what employees are disciplined for what activities.

I understand that all the offences that could possibly occur cannot be listed in the Employee Handbook – sooner or later someone will do something not listed in the document.

There needs to be a contingency plan and a person or persons who can recognize an unlisted offence that must be disciplined. On the other hand, the Town Handbook seems to give the TM the sole right to decide what is an offence and the sole right to fire people. Perhaps the inclusion of other officers would address that issue, such as, "Engaging in an action which the Town Manager, **Human Resources Director and/or Department Head determines** is sufficient cause for discipline under this category." This would go a long way towards preventing the perception that employees can be disciplined or dismissed for trivial reasons or because of personal animus from the TM.

P 78, 7.4, Formal Conference

Note: Notwithstanding the provisions set forth in Section 7.4, the Town Manager reserves the right to hold a formal conference without notice with any employee if the Town Manager deems such conference to be warranted.

P 78, 7.5, Para 2, Grounds for Disciplinary Action

Whenever an employee renders deficient performances, violates any rule, regulations, Town policy or procedure, or engages in any action which the Town Manager determines is sufficient cause for discipline, the employee shall be subject to disciplinary action as appropriate.

Pg. 81, 7.9 Category I, Grounds for Disciplinary Action:

S. Engaging in an action which the Town Manager determines is sufficient cause for disciplinary action under this category.

Pg. 84, 7.10 Category II, Grounds for Disciplinary Action:

V. Engaging in an action which the Town Manager determines is grounds for disciplinary action under this category.

Pg. 87, 7.11 Category III, Grounds for Disciplinary Action:

Z. Any action determined by the Town Manager to be so serious as to warrant immediate termination of employment.

I still believe these phrases invest too much power in one individual and I would hope that you see fit to modify them.

Once again, I would to say that the work already done on this Handbook exceeds my expectations. I want to thank you for recognizing that changes needed to be made and to thank you for your past and continuing willingness to work on this.

Diane Bernhardt

Cc: Mayor DuBois, Commissionners Hockman, Longtin, Rumsey, and Stevens, Town Attorney Baird, Town Manager Sugerman, HR Director Bambi Turner and Town Clerk Vivian Lemley.

Cc:

J. DuBois
S. Hockman
J. Longtin
K. Rumsey
T. Stevens
J. Baird
D. Sugerman
B. Turner
V. Lemley

JONES FOSTER

JOHNSTON & STUBBS, P.A.

Memo

To: Mayor & Commissioners
From: Thomas J. Baird, Town Attorney
Date: July 25, 2012
Subject: Town of Lake Park v. ATM, et al.
Cc: Dale S. Sugerman, Town Manager

Commission Longtin requested that I provide her with a copy of a Litigation Status Report. This is that Report.

Town of Lake Park v. Palm Beach County / IG funding lawsuit

The Commission unanimously agreed to join 14 other municipalities in a lawsuit challenging the County's authority to assess a fee against the municipalities for the Inspector General's services. The municipalities' position is that the fee the County has assessed is illegal and that the County is solely responsible for funding the Office of the Inspector General.

Dover v. Town of Lake Park

The Dovers appealed a decision by the Town's Special Magistrate that the Dovers' were violating the setback regulations of the Code in the manner in which they were storing their boat. The Dovers appealed the Special Magistrate's decision and I have responded with an Answer Brief to which the Dovers' attorney has replied. Consequently, the appeal has been fully briefed. The Appellate Division upheld the Special Magistrate's decision and the court has filed an Mandate in this matter.

Town of Lake Park v. Applied Technology and Management, Inc. (AMT), et al

Mediation was held in the Town's lawsuit against Applied Technology and Management, Murphy Construction Co, Bridge Design Associates and Lumberman's Mutual Casualty Co., related to deficiencies related to Phases I, II & III of the Marina Revitalization Project. Larry L. Cook, Esquire of the law firm of Daniels, Kashtan, Downs, Robertson & McGirney has been representing the Town in this matter. The case was settled as reported to the Commission. At the request of the Finance Director the Town will not be executing the settlement documents until October 1, 2012. Accordingly, the case will not be legally terminated and a dismissal entered until then.

A. FORECLOSURES INITIATED BY LENDERS

Bank of America v. Erik Krammer et al.

The Town was named as a Defendant in a foreclosure action brought against Erik Krammer as a result of a Code Enforcement Lien the Town has against the

property located at 912 West Jasmine Dr. An Answer to the Plaintiff's Complaint was filed on Sept. 30, 2011 to secure the Town's Lien rights. This case is pending.

Bank of America v. Julian A. Ocampo

The Town as named as a Defendant in a foreclosure action brought against Julian Ocampo as a result of a Code Enforcement Lien the Town has against the property located at 727 Bayberry Drive. An Answer to the Plaintiff's Complaint was filed on October 21, 2008 to secure the Town's Lien rights. A Final Judgment of Foreclose in the amount of \$145,215.08 was entered on July 23, 2012, with a sale date scheduled for 8/27/12.

Bank of New York Mellon v. Charles B. Capers, et al.

The Town was named as a Defendant in a foreclosure action brought against Charles B. Capers as a result of a Code Enforcement Lien the Town has against the property located at 601 Date Palm Drive. An Answer to the Plaintiff's Complaint was filed on June 27, 2012 to secure the Town's Lien rights.

CitiFinancial Equity Services, Inc. v. Lucencia Baptise

The Town was named as a Defendant in a foreclosure action brought against Lucencia Baptise as a result of a Code Enforcement Lien the Town has against the property located at 730 Hawthorne Drive. An Answer to the Plaintiff's Complaint was filed on August 19, 2009 to secure the Town's Lien rights. A Motion for Summary Judgment has been filed, however, no hearing has been noticed, and consequently the case remains pending.

Citimortgage, Inc. v. Robert Raucci, et al.

The Town was named as a Defendant in an action to foreclosure property as a result of a Code Enforcement Lien the Town has against property he owns at 1010 Lake Shore Drive. An Answer to the Plaintiff's Complaint was filed on August 21, 2009 to secure the Town's Lien rights. The case is still pending.

Deutsche Bank v. Zaidy L. Gantt, et al.

The Town was named a Defendant in a foreclosure action brought against Zaidy Gantt. The Town was named as a Defendant because of a Code Enforcement Lien it has against property the Defendant owns 445 Flagler Blvd. An Answer to the Plaintiff's Complaint was filed on June 26, 2009 to secure the Town's Lien rights. The case is still pending.

Deutsche Bank National Trust v. Francis Gay, et al

The Town was named a Defendant in a foreclosure action brought against Francis & Gina Gay. The Town was named as a Defendant because of a Code Enforcement Lien it has against property the Defendant owns at 118 2nd Street. An

Answer to the Plaintiff's Complaint was filed on April 18, 2012 to secure the Town's Lien rights.

Deutsche Bank Trust Company v. Loly Cesard, et al.

Town was named as a Defendant in a foreclosure action brought against Loly Cesard as a result of a Code Enforcement Lien the Town has against the subject property located at 215 Evergreen Drive. An Answer to the Plaintiff's Amended Complaint was filed on Aug. 25, 2008 to secure the Town's Lien rights and the case is still pending.

Deutsche Bank v. Christopher Ross, et al.

The Town was named a Defendant in a foreclosure action brought against the Estate of Claire E. Ross as a result of a Code Enforcement Lien the Town has against the subject property located at 539 E. Redwood Drive. An Answer to the Plaintiff's Complaint was filed with the Court on August 24, 2008 to secure the Town's Lien rights. The case is still pending.

Midfirst Bank v. Antonio L. Johnson, et al.

The Town was named as a Defendant in a foreclosure action brought against Antonio Johnson as a result of a Code Enforcement Lien the Town has against the subject property located at 744 Cypress Drive. An Answer to the Plaintiff's Complaint was filed on June 28, 2011 to secure the Town's Lien rights. This case is pending.

PHH Mortgage Corporation v. Donald D. Jacobovitz, et al.

The Town was named as a Defendant in a foreclosure action brought against Donald D. Jacobovitz as a result of a Code Enforcement Lien the Town has against the subject property located at 253 E. Kalmia Drive. An Answer to the Plaintiff's Complaint was filed on July 24, 2012 to secure the Town's Lien rights.

Suntrust Mortgage, Inc. v. Michael S. Lee et al.

The Town was named as a Defendant in a foreclosure action brought against Michael S. Lee as a result of a Code Enforcement Lien the Town has against the subject property located at 338 Cypress Drive. An Answer to the Plaintiff's Complaint was filed on November 24, 2009 to secure the Town's Lien rights. This case is still pending.

U.S. Bank National Associates v. Gisele Lamarre, et al.

The Town was named as a Defendant in a foreclosure action brought against Gisele Lamarre a result of a Code Enforcement Lien the Town has against the subject property located at 243 E. Ilex Drive. An Answer to the Plaintiff's Complaint was filed on December 16, 2008 to secure the Town's Lien rights. A Motion for Final Judgment has

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Page 4

been filed by the Plaintiff, but a hearing date has not been set. This case is still pending.

U.S. Bank National Association v. Wendy Hockman, Steve Hockman, the United States of America, et al.

The Town was named as a Defendant in a foreclosure action brought against Wendy Hockman a result of a Code Enforcement Lien the Town has against the subject property located at 638 Flagler Blvd. An Answer to the Plaintiff's Complaint was filed on July 25, 2012 to secure the Town's Lien rights. The Town will be filing its Answer and Affirmative Defense.

Wells Fargo Bank v. Gladys C. Harris, et al

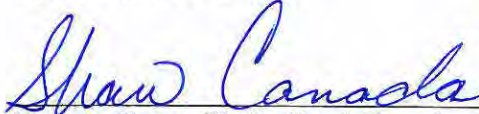
The Town was named as a Defendant in a foreclosure action brought against Gladys Harris as a result of a Code Enforcement Lien the Town has against the subject property located at 802 Popular Drive. An Answer to the Plaintiff's Complaint was filed on June 21, 2010 to secure the Town's Lien rights. The case is pending.

ADJOURNMENT

There being no further business to come before the Commission and after a motion to adjourn by Vice-Mayor Rumsey and seconded by Commissioner Hockman, and by unanimous vote, the meeting adjourned at 9:40 p.m.



Mayor James DuBois



Deputy Town Clerk, Shari Canada, CMC



Town Clerk, Vivian Mendez Lemley, CMC



FLORIDA

Approved on this 15 of August, 2012



AGENDA

Lake Park Town Commission
Town of Lake Park, Florida
Regular Commission Meeting
Wednesday, August 1, 2012,
Immediately Following the
CRA Board Meeting
Lake Park Town Hall
535 Park Avenue

James DuBois	—	Mayor
Kendall Rumsey	—	Vice-Mayor
Steven Hockman	—	Commissioner
Jeanine Longtin	—	Commissioner
Tim Stevens	—	Commissioner
.....		
Dale S. Sugerman, Ph.D.	—	Town Manager
Thomas J. Baird, Esq.	—	Town Attorney
Vivian Mendez Lemley, CMC	—	Town Clerk

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision of the Town Commission, with respect to any matter considered at this meeting, such interested person will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. *Persons with disabilities requiring accommodations in order to participate in the meeting should contact the Town Clerk's office by calling 881-3311 at least 48 hours in advance to request accommodations.*

- A. CALL TO ORDER
- B. INVOCATION
- C. PLEDGE OF ALLEGIANCE
- D. ROLL CALL
- E. ADDITIONS/DELETIONS - APPROVAL OF AGENDA
- F. PRESENTATION:
 - 1. Proclamation in Honor of Lieutenant Pedro L. Palenzuela for his Services as Commanding Officer of the Palm Beach County Sheriff's Office District 10 Tab 1
 - 2. Request by the American Cancer Society to Hold the 2013 Relay for Life at Lake Shore Park Tab 2

G. PUBLIC and OTHER COMMENT:

This time is provided for audience members to address items that do not appear on the Agenda. Please complete a comment card and provide it to the Town Clerk so speakers may be announced. Please remember comments are limited to a TOTAL of three minutes.

**H. PUBLIC HEARING:
ORDINANCE ON SECOND READING:**

******* OPEN PUBLIC HEARING*******

A. Staff Report

B. Public Comments

C. Commission Deliberation

3. Ordinance No. 09-2012 Text Amendment for the Campus Light Industrial and Commercial (CLIC) Zoning District – To expand the permitted area for educational facilities and requiring that these uses be approved as a Conditional Use.

Tab 3

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE III, SECTION 78-75(2)(C)(4) OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "CLIC-1 CAMPUS LIGHT INDUSTRIAL / COMMERCIAL DISTRICT" TO ADD EDUCATION FACILITIES AND TRAINING CENTERS AS A PERMITTED USE ALONG THE ULTIMATE RIGHT OF WAY OF WATERTOWER ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

******* CLOSE PUBLIC HEARING*******

I. RESOLUTIONS:

4. Resolution No. 18-08-12 Palm Beach County League Supporting the County's Allocation of the \$12.50 Funds to Enhance Municipal Intergovernmental Communications Plan

Tab 4

J. DISCUSSION AND POSSIBLE ACTION:

5. Final Payment to Simmons and White for Engineering Services Associated with the Downtown Alleyway Improvements, Paving, Drainage, Lighting

Tab 5

6. Continuing Landscape Maintenance Agreement with Chris Wayne and Associates, Inc. for the Lake Park Harbor Marina

Tab 6

7. Review of Draft of Revised Handbook of Procedures and Policies for Employees of the Town of Lake Park (Employee Handbook)

Tab 7

K. COMMISSIONER COMMENTS, TOWN ATTORNEY, TOWN MANAGER:

L. ADJOURNMENT: